



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93171; File No. SR-NYSEArca-2021-67]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the One River Carbon Neutral Bitcoin Trust under NYSE Arca Rule 8.201-E

September 29, 2021.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 20, 2021, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the One River Carbon Neutral Bitcoin Trust under NYSE Arca Rule 8.201-E. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the One River Carbon Neutral Bitcoin Trust (the “Trust”) pursuant to NYSE Arca Rule 8.201-E which governs the listing and trading of “Commodity-Based Trust Shares.”⁴

Description of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust.⁵ The sponsor of the Trust is One River Digital Asset Management, LLC (“Sponsor”), a Delaware limited liability company. The Sponsor is a wholly-owned subsidiary of One River Asset Management, LLC. The trustee for the Trust is Delaware Trust Company (“Trustee”). The custodian for the Trust is Coinbase Custody Trust Company, LLC (“Custodian”). The Custodian will hold all of the Trust’s bitcoin on the Trust’s behalf. The marketing agent for the Trust is Foreside Global Services, LLC (the “Marketing Agent”). The Bank of New York Mellon acts as the Trust’s transfer agent (in such capacity, the “Transfer Agent”) and its administrator (in such capacity, the “Administrator”) to perform various administrative, accounting and recordkeeping functions on behalf of the Trust.

⁴ Commodity-Based Trust Shares are securities issued by a trust that represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

⁵ The Trust is a Delaware statutory trust, formed on April 27, 2021, pursuant to the Delaware Statutory Trust Act. The Trust operates pursuant to the Trust Agreement dated April 26, 2021. On May 24, 2021, the Trust filed a registration statement on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a) (the “Securities Act”) (File No. 333-256407) (the “Registration Statement on Form S-1” or “Registration Statement”). The Trust intends to adopt an Amended and Restated Trust Agreement as described in the Registration Statement on Form S-1 prior to requesting accelerated effectiveness thereof.

Operation of the Trust⁶

According to the Registration Statement, the Trust's investment objective is to seek to track the performance of bitcoin, as measured by the performance of the MVIS One River Carbon Neutral Bitcoin Index (the "Index"), adjusted for the Trust's expenses and other liabilities. The Index is designed to reflect the performance of bitcoin in U.S. dollars on a carbon neutral basis. As described below, the Trust intends to offset the carbon footprint associated with bitcoin once a quarter by paying for the instantaneous retirement of carbon credits necessary to account for the daily estimated carbon emissions associated with the bitcoins held by the Trust.⁷ MVIS, with the assistance of its affiliates, is also the calculation agent for the Index and MVIS[®] CryptoCompare Bitcoin Benchmark Rate.

In seeking to achieve its investment objective, the Trust will hold bitcoin and will value its Shares based on the same methodology used to calculate the Index, as adjusted to reflect the expenses associated with offsetting carbon credits. The Trust aims to provide a cost-efficient, carbon neutral way for shareholders to implement strategic and tactical asset allocation strategies that use bitcoin by investing in the Trust's Shares rather than purchasing, holding, and trading bitcoin directly.

Under normal circumstances, the Trust will not purchase or sell bitcoin directly, although the Trust may direct the Custodian to sell or transfer bitcoin to pay certain expenses. The Trust will also not hold cash or cash equivalents. However, there may be situations where the Trust will hold cash on a temporary basis. The Trust has entered into a cash custody agreement with BNYM (in such capacity, the "Cash Custodian") under which BNYM acts as custodian of the Trust's cash and cash equivalents. The Fund will not hold futures, options or options on futures.

⁶ The description of the operation of the Trust, the Shares and the bitcoin market contained herein are based, in part, on the Registration Statement. See note 5, supra.

⁷ The instantaneous retirement of carbon credits means that the Trust does not hold an intangible asset and that the carbon credit is permanently removed from tradeable supply.

The Trust will process all creations and redemptions in-kind. Financial firms that are authorized to purchase or redeem Shares with the Trust (known as “Authorized Participants”) will deliver, or facilitate the delivery of, bitcoin to the Bitcoin Account (as defined below) in exchange for Shares when they purchase Shares. The Trust, through the Custodian, will then deliver bitcoin to such Authorized Participants when they redeem Shares. All bitcoin will be held by the Custodian. The Transfer Agent will facilitate the processing of purchase and sale orders in “Creation Baskets” (defined below) from the Trust.

Although the Trust will create Baskets only upon the receipt of bitcoins, and will redeem Baskets only by distributing bitcoins, a separate cash exchange process will be made available to Authorized Participants, which can be used, for example, by Authorized Participants who cannot or do not wish to own a bitcoin digital wallet address. Under the cash exchange process, an Authorized Participant may deposit cash with the Administrator, which will facilitate the purchase or sale of bitcoins through a liquidity provider (each, a “Liquidity Provider”) on behalf of an Authorized Participant. The bitcoin purchased (or sold) by the Liquidity Provider in connection with the cash exchange process will, in turn, be delivered to (or from, as appropriate) the Custodian, on behalf of the Trust, in exchange for Baskets. To the extent an Authorized Participant chooses to rely on this cash exchange process when submitting an order to create or redeem a Basket, that Authorized Participant will pay (or receive) a cash amount based on a firm quote calculated by the Liquidity Provider, which will be equal to the spot price of bitcoin, as reported by the BBR (as defined below), at the time at which the Administrator receives the appropriate cash collateral amount (or the time at which the Administrator notifies the Authorized Participant that the order has been accepted, in the case of redemptions), plus a proportional transaction fee that is intended to cover the Liquidity Provider’s expenses in connection with the creation or redemption order. Regardless of whether an Authorized Participant chooses to rely on this cash exchange process in connection with a given creation or redemption order, the Trust will create (or redeem, as appropriate) Baskets only upon the receipt

(or distribution, as appropriate) of bitcoin, and will not create or redeem any Baskets based on the receipt or distribution of cash alone.

The Index and Carbon Neutrality

The MVIS One River Carbon Neutral Bitcoin Index is designed to reflect the performance of bitcoin in U.S. dollars on a carbon neutral basis. The Index is constructed using bitcoin price feeds from eligible bitcoin spot markets and volume weighted median price average (“VWMP”), calculated over 20 intervals in rolling three-minute increments,⁸ less the estimated cost of offsetting the daily carbon emissions attributable to each bitcoin in the network.

The Index methodology was developed by MV Index Solutions GmbH (the “Index Provider” or “MVIS”) and is monitored by the One River Index Committee (the “Committee”), an independent, third-party calculation agent for the Index. MVIS, with the assistance of its affiliates, is also the calculation agent for the MVIS® CryptoCompare Bitcoin Benchmark Rate, which measures the value of the underlying bitcoin represented by the Index. The Index and its public dissemination provide transparency to investors.

In establishing the Index, MVIS and the Sponsor created a robust, transparent process for quantifying the carbon footprint of bitcoin in a clear, repeatable manner. The cost of the carbon offset used in the Index is calculated in the following steps. First, electricity consumption for the

⁸ Unlike previous proposed rule changes relating to the listing of bitcoin products on U.S. exchanges that the Commission has disapproved, *see, e.g.*, Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the Bitwise Bitcoin ETF Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 87267 (Oct. 9, 2019), 84 FR 55382 (Oct. 16, 2019) (SR-NYSEArca-2019-01) (the “Bitwise Order”) (measuring price over 6 consecutive five-minute segments) and Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares) and to List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR-NYSEArca-2019-39) (the “Wilshire Phoenix Order”) (measuring price over 12 consecutive five-minute segments), the Sponsor believes that the use of 20 consecutive three-minute segments will better enable the Index to approximate a normal sampling distribution with respect to bitcoin prices and, thus, will result in overall more accurate pricing of bitcoin.

bitcoin mining network is recorded daily. Second, geolocation of bitcoin miners identifies the location of electricity usage. Third, for each location, the average production of electricity by its source of production (e.g., solar, coal) is recorded. This estimates the carbon emission intensity of electricity consumption in the Bitcoin network. Fourth, total electricity consumption is multiplied by the carbon intensity of the Bitcoin network to estimate total carbon emissions. These steps allow MVIS to obtain a daily estimate of the carbon emissions necessary to run the Bitcoin network. The total carbon emissions of the Bitcoin network are divided by the total number of bitcoins in circulation⁹ to estimate the carbon emissions attributable to each bitcoin on each day. Finally, the carbon emission attributable to each bitcoin is multiplied by the MCO2-token market price of a carbon offset, thus, providing a daily account of the cost of carbon for each bitcoin.

The Trust intends to offset the carbon footprint associated with the bitcoin it holds by paying for the retirement of voluntary carbon credits -- equal to the daily estimated carbon emissions associated with the bitcoins held by the Trust. Voluntary carbon credits are certified and standardized under the Verra Verified Carbon Standard (“Verra”), an organization that establishes and manages standards and programs in connection with voluntary carbon credits. The Trust will only utilize carbon credits that meet the Verra standards.

The Trust has entered into an agreement with LIRDES S.A. (doing business as Moss Earth) (“Moss”), a company located in Uruguay, to pay for carbon credit tokens created by Moss (“MCO2 tokens”) representing certified reductions in greenhouse gas emissions. The MCO2 token is a digital representation of a carbon credit that is stored on a registry by Verra and can be acquired in over the counter or publicly traded markets. The MCO2 tokens issued by Moss are

⁹ Bitcoin in circulation is number of coins that are circulating in the market and are in public hands. It is analogous to the floating shares in the stock market. Several third-party vendors provide verified data on at least a daily basis. See <https://coinmarketcap.com/currencies/bitcoin/>.

carbon offsets encrypted and tokenized utilizing blockchain technology and are stored on a registry managed by Verra.

Moss purchases carbon credits from projects that are certified under Verra's Verified Carbon Standard. Each circulating MCO2 token is intended to represent a claim on a certified carbon credit held in an aggregated pool of carbon credits within the Moss account on the Verra Registry. Tokenized carbon credits are fungible and do not represent a claim on a specific underlying carbon credit issued to a specific carbon reduction project.

The Trust will purchase MCO2 tokens from Moss at the end of March, June, September, and December at pre-negotiated prices and Moss will instantaneously retire the tokens to the public blockchain.¹⁰ The number of MCO2 tokens paid for by the Trust will equal the aggregated sum of offsets implied by the daily carbon emissions for a single bitcoin over the preceding quarter multiplied by the average number of bitcoins held in the Trust's portfolio during the quarter, with a view towards tracking the carbon footprint offset estimate calculated by the Index. Employing tokenized carbon credits provides investors with enhanced transparency as the blockchain serves as a public record of the Trust transactions in carbon offsets on the Verra registry.

The Index value is the benchmark value of the bitcoin less the estimated daily cost of offsetting the carbon emissions of a single bitcoin. The value of the carbon offset provides the marketplace with a tangible measurement of the implied market cost of carbon emissions. The daily accumulation of the carbon offset component of the Index measures the totality of the cost of the carbon offset required for holding a single bitcoin over the accumulation period.

The Trust does not hold the carbon offset MCO2 tokens as an asset. Instead, the Trust pays for the MCO2 tokenized carbon offsets from Moss, who then instantaneously retire the tokens to the public blockchain, to reduce global carbon emissions by the carbon dioxide tonnage

¹⁰ MCO2 tokens are recorded on the Ethereum blockchain and is publicly available. See <https://www.blockchain.com/explorer?view=eth>.

(or tonnage of other similar greenhouse gases) corresponding to such tokens. In tokenized form, investors and the marketplace can validate the activity in carbon credit offsets through the public blockchain, enhancing transparency. The retirement of the carbon offset makes it unusable in the future and is the final step in offsetting emissions. Upon expiration of its agreement with Moss in April 2031, the Trust will either enter into a replacement agreement, or alternatively pay for the retirement of MCO2 tokens or similar carbon credits at then current spot prices for such instruments.

According to the Sponsor, the Index is the aggregation of executed trade data for major bitcoin spot exchanges. To be eligible for inclusion in the Index, a constituent bitcoin exchange (“Constituent Bitcoin Exchange”) must facilitate spot trading of bitcoin against the US Dollar and make trade data and order data available through an application programming interface (“API”) with sufficient reliability, relevant data, and appropriate speed. The volume for spot trading must meet a minimum threshold when compared to the total volume of all Constituent Bitcoin Exchanges included in the Index. To be considered, an exchange must also enforce policies to ensure fair and transparent market conditions and have processes in place to impede illegal, or manipulative trading practices. Additionally, to be included as a constituent in the Index, each Constituent Bitcoin Exchange must comply with applicable law and regulation, including proper AML/KYC procedures.

The MVIS[®] CryptoCompare Bitcoin Benchmark Rate (BBR), the bitcoin component of the Index, is the bitcoin benchmark used in the tracking of funds comprising \$821.2 million in total capitalization as of June 29, 2021, including recently introduced exchange-traded products in Canada.¹¹ The constituent exchanges are based on the top five ranking CryptoCompare exchange benchmarks: Coinbase, Gemini, Bitstamp, Kraken, and itBit. BBR was first released in 2019 to improve upon systematic evaluation of exchange counterparties with no established

¹¹ See MVIS Investible Indices, available at: <https://www.mvis-indices.com/indices/digital-assets/mvis-cryptocompare-bitcoin-benchmark-rate>.

framework for assessing various exchange risks. CryptoCompare assigns a grade from AA to F to each spot exchange, with the goal of helping markets assess the lowest-risk exchanges in the industry. Eligible spot markets include all U.S. digital asset exchanges and/or regulated digital asset exchanges selected by the Committee. Such markets will be evaluated semi-annually, and the final selections will be made on the third Friday of January and July or during market disruptions where a market review is warranted, as determined by the Committee.

Top-tier exchanges are in the AA-B bracket and meet the standard of acceptable risk. More than 160 global spot exchanges are evaluated monthly based on data transparency, KYC stringency and transaction monitoring. Operational standards have increased across the board. The Sponsor notes that after ascertaining API data from these exchanges, the information is aggregated from actual trade data in a manner specifically designed to resist manipulation. Partitions are utilized to ensure large individual trades have a limited effect on the price of the Index by only influencing the volume-weighted median for a particular partition. Use of volume-weighted medians, as opposed to volume-weighted means, verifies that transactions conducted at outlying prices do not have an excessive effect on the value of a partition. The Index weighs each partition equally and also weighs each exchange that is a part of the Index equally.

Bitcoin and the Bitcoin Network¹²

According to the Registration Statement, bitcoin is a digital asset that can be transferred among participants on the Bitcoin network on a peer-to-peer basis via the Internet. Unlike other means of electronic payments, bitcoin can be transferred without the use of a central administrator or clearing agency. Because a central party is not necessary to administer bitcoin

¹² Bitcoin (with an uppercase “B”) is used to describe the system as a whole that is involved in maintaining the ledger of bitcoin ownership and facilitating the transfer of bitcoin among parties. When referring to the digital asset within the Bitcoin network, bitcoin is written with a lower case “b.”

transactions or maintain the bitcoin ledger, the term decentralized is often used in descriptions of bitcoin.

The “Bitcoin network” is a decentralized, open-source protocol of a peer-to-peer network. No single entity owns or operates the Bitcoin network. Bitcoin is not issued by any government, by banks or similar organizations. The infrastructure of the Bitcoin network is collectively maintained by a decentralized user base. The Bitcoin network is accessed through software, and software governs the creation, movement, and ownership of “bitcoin,” the unit of account on the Bitcoin network ledger. The value of bitcoin is determined, in part, by the supply of, and demand for, bitcoin in the global markets for trading bitcoin, market expectations for the adoption of bitcoin as a decentralized store of value, the number of merchants and/or institutions that accept bitcoin as a form of payment and the volume of private end-user-to-end-user transactions.

The first step in using bitcoin for transactions is to download specialized software referred to as a “bitcoin wallet.” A user’s bitcoin wallet can run on a computer or smartphone, and can be used both to send and to receive bitcoin. Within a bitcoin wallet, a user can generate one or more unique “bitcoin addresses,” which are conceptually similar to bank account numbers on the Bitcoin Blockchain and are associated with a pair of public and private keys. After establishing a bitcoin address, a user can send or receive bitcoin from his or her bitcoin address to another user’s address using the public and private keys. Sending bitcoin from one bitcoin address to another is similar in concept to sending a bank wire from one person’s bank account to another person’s bank account.

The amount of bitcoin associated with each bitcoin address is listed in a public ledger, referred to as a “blockchain.” Copies of the Bitcoin Blockchain exist on thousands of computers on the Bitcoin network throughout the Internet. A user’s bitcoin wallet will either contain a copy of the Bitcoin Blockchain or be able to connect with another computer that holds a copy of the Bitcoin Blockchain.

When a bitcoin user wishes to transfer bitcoin to another user, the sender must first request a bitcoin address from the recipient. The sender then uses his or her bitcoin wallet software to create a data packet containing the proposed addition (often referred to as a “transaction”) to the Bitcoin Blockchain. The proposed transaction would reduce the sender’s address and increase the recipient’s address by the amount of bitcoin desired to be transferred, and is sent on a peer-to-peer basis to other computers participating in the Bitcoin network.

Bitcoin transaction and ownership records are reflected on the “Bitcoin Blockchain,” which is a digital public record or ledger. Copies of this ledger are stored in a decentralized manner on the computers of each Bitcoin network node (a node is any user who maintains on their computer a full copy of all the bitcoin transaction records, the blockchain, as well as related software). Transaction data is permanently recorded in files called “blocks,” which reflect transactions that have been recorded and authenticated by Bitcoin network participants. The Bitcoin network software source code includes protocols that govern the creation of new bitcoin and the cryptographic system that secures and verifies bitcoin transactions.

Bitcoin Transactions

According to the Registration Statement, bitcoin transactions are similar to an irreversible digital check. The transaction contains the sender’s bitcoin address, the recipient’s bitcoin address, the amount of bitcoin to be sent, a transaction fee and the sender’s digital signature. The sender’s use of his or her digital signature enables participants on the Bitcoin network to verify the authenticity of the bitcoin transaction. A user’s digital signature is generated via usage of the user’s so-called “private key,” one of two numbers in a so-called cryptographic “key pair.” A key pair consists of a “public key” and its corresponding private key, both of which are lengthy alphanumeric codes, derived together and possessing a unique relationship. Public keys are associated with bitcoin addresses that are publicly known and can accept a bitcoin transfer. Private keys are used to sign transactions that initiate the transfer of bitcoin from a sender’s bitcoin address to a recipient’s bitcoin address. Only the holder of the private key associated with

a particular bitcoin address can digitally sign a transaction proposing a transfer of bitcoin from that particular bitcoin address.

Bitcoin can be transferred in direct peer-to-peer transactions through the direct sending of bitcoin over the Bitcoin Blockchain from one bitcoin address to another. Among end-users, bitcoin can be used to pay other members of the Bitcoin network for goods and services under what resembles a barter system. Consumers can also pay merchants and other commercial businesses for goods or services through direct peer-to-peer transactions on the Bitcoin Blockchain or through third-party service providers. In addition, investors may purchase and sell bitcoin to speculate as to the value of bitcoin in the bitcoin market, or as a long-term investment to diversify their portfolio.

The value of bitcoin within the market is determined, in part, by the supply of and demand for bitcoin in the global bitcoin market, market expectations for the adoption of bitcoin as a store of value, the number of merchants that accept bitcoin as a form of payment, and the volume of peer-to-peer transactions, among other factors.

Custody of the Trust's Bitcoins

The Custodian will retain custody of the Trust's bitcoin in an account for the Trust (the "Bitcoin Account"). The Custodian will keep a substantial portion of the private keys associated with the Trust's bitcoin in "cold storage" or similarly secure technology. Cold storage is a safeguarding method with multiple layers of protections and protocols, by which the private key(s) corresponding to the Trust's bitcoin is (are) generated and stored in an offline manner. Private keys are generated in offline computers that are not connected to the internet so that they are resistant to hacking.

Calculation of Net Asset Value

The NAV of the Trust will be equal to the median price of the bitcoin used in the calculation of the Index less the Trust's liabilities, including the cost of carbon measured in the Index, divided by the total number of outstanding Shares. The accumulation of the daily carbon

offset costs calculated in the Index act as an expense to the Trust. The payment for the retirement of carbon offsets will occur once per quarter of the calendar year. The number of MCO₂ tokens retired will equal the aggregated sum of offsets implied by the daily carbon footprint for each bitcoin during the quarter. The NAV will accrue the estimated carbon cost daily.

The Trust will not hold carbon offsets as assets; they are functionally equivalent to an expense of the Trust and will be retired by the Trust instantaneously upon payment. Furthermore, the creation of the Index and tokenization of the carbon offsets will provide additional transparency to investors with respect to the NAV of the Trust vis-à-vis the estimated carbon footprint of the bitcoin retired by the Trust, and will thus give investors an opportunity to independently monitor the Trust's efforts to offset the carbon emissions associated with its bitcoin holdings.

The Administrator will calculate the NAV of the Trust once each Exchange trading day. The NAV for a normal trading day will be released after 4:00 p.m. Eastern Time ("E.T."). Trading during the core trading session on the Exchange typically closes at 4:00 p.m. E.T. However, NAVs are not officially struck until later in the day (often by 5:30 p.m. E.T. and almost always by 8:00 p.m. E.T.). The pause between 4:00 p.m. E.T. and 5:30 p.m. E.T. (or later) provides an opportunity to algorithmically detect, flag, investigate, and correct unusual pricing should it occur.

Intraday Indicative Value

In order to provide updated information relating to the Trust for use by Shareholders and market professionals, the Trust's website, as well as one or more major market data vendors, will disseminate an updated intraday indicative value ("IIV") per Share updated every 15 seconds through the facilities of CTA/CQ High Speed Lines during the Exchange's Core Trading

Session.¹³ The IIV will be calculated by using the prior day's closing NAV per Share of the Trust as a base and updating that value throughout the trading day to reflect changes in the most recently reported price level of the Index as reported by Bloomberg, L.P. or another reporting service.

The IIV disseminated during the NYSE Arca Core Trading Session should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the NYSE Arca Core Trading Session by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will issue Shares on an ongoing basis, but only in one or more Baskets. A Basket equals a block of 50,000 Shares. The Trust intends to redeem Shares in Baskets on an ongoing basis from Authorized Participants, according to the procedures described herein.

The creation and redemption of a Basket requires the delivery to the Trust, or the distribution by the Trust, of the number of whole and fractional bitcoins represented by each Basket being created or redeemed, the number of which is determined by dividing the number of bitcoins owned by the Trust at 4:00 p.m. E.T. on the trade date of a creation or redemption order, as adjusted for the number of whole and fractional bitcoins constituting accrued but unpaid fees and expenses of the Trust, by the number of Shares outstanding at such time (the quotient so obtained calculated to one one-hundred-millionth of one bitcoin), and multiplying such quotient by 50,000 (the "Basket Bitcoin Amount"). The Basket Bitcoin Amount multiplied by the number of Baskets being created or redeemed is the "Total Basket Bitcoin Amount."

¹³ Several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association ("CTA") or other data feeds. In addition, the IIV will be available through on-line information services such as Bloomberg and Reuters.

The MCO2 tokenized carbon offset is not a part of the Basket as it is not an asset to the Trust, nor does the Trust's payment for the retirement of such MCO2 tokens impact the process by which the Trust creates or redeems Baskets. The Trust will pay for the retirement of such carbon offsets at a quarterly frequency, thereby permanently offsetting carbon emissions.

According to the Registration Statement, Authorized Participants are the only persons that may place orders to create and redeem Creation Baskets. Authorized Participants must (1) be a registered broker-dealer, (2) enter into a Participant Agreement with the Sponsor, the Administrator, the Marketing Agent and the Liquidity Providers,¹⁴ and (3) in the case of the creation or redemption of Baskets that do not use the Conversion Procedures,¹⁵ own a bitcoin wallet address that is recognized by the Custodian as belonging to the Authorized Participant.

Creation Procedures

According to the Registration Statement, on any business day, an Authorized Participant may order one or more Creation Baskets from the Trust by placing a creation order with the Administrator. For purposes of processing both purchase and redemption orders, a "business day" means any day other than a day when the Exchange or the New York Stock Exchange is closed for regular trading.

¹⁴ Although the Trust will create Baskets only upon the receipt of bitcoins, and will redeem Baskets only by distributing bitcoins, an Authorized Participant may deposit cash with the Administrator, which will facilitate the purchase or sale of bitcoins through a Liquidity Provider on behalf of an Authorized Participant (the "Conversion Procedures"). Liquidity Providers must (1) enter into a Participant Agreement with the Sponsor, the Administrator, the Marketing Agent and each Authorized Participant and (2) own a Liquidity Provider Account.

¹⁵ The Conversion Procedures will be facilitated by a single Liquidity Provider. On an order-by-order basis, the Sponsor will select the Liquidity Provider that it believes will provide the best execution of the Conversion Procedures, and will base its decision on factors such as the Liquidity Provider's creditworthiness, financial stability, the timing and speed of execution, liquidity and the likelihood of, and capabilities in, execution, clearance and settlement. In the event that an order cannot be filled in its entirety by a single Liquidity Provider, additional Liquidity Provider(s) will be selected by the Sponsor to fill the remaining amount based on the criteria above.

As noted above, creation orders will be placed “in-kind.” Creation orders must be placed no later than 3:59:59 p.m. E.T. on each business day. Authorized Participants may only create Baskets and cannot create any Shares in an amount less than a Basket.

The Basket Bitcoin Amount required for a Creation Basket will be determined by dividing the number of bitcoins owned by the Trust at 4:00 p.m. E.T. on the trade date of a creation or redemption order, as adjusted for the number of whole and fractional bitcoins constituting accrued but unpaid fees and expenses of the Trust, by the number of Shares outstanding at such time (the quotient so obtained calculated to one one-hundred-millionth of one bitcoin), and multiplying such quotient by 50,000. All questions as to the composition of a Basket Bitcoin Amount will be conclusively determined by the Sponsor and will be final and binding on all persons interested in the Trust.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets. On any business day, an Authorized Participant may place a redemption order specifying the number of Redemption Baskets to be redeemed. As noted above, redemption orders must be placed “in-kind.” Redemption orders must be placed no later than 3:59:59 p.m. E.T. on each Business Day. The Authorized Participants may only redeem Baskets and cannot redeem any Shares in an amount less than a Basket.

Bitcoin and Investor Protection

In prior orders relating to the listing of products on U.S. exchanges, the Commission Staff expressed its concern that the global market for bitcoin may be subject to potential manipulation.¹⁶ In order for any proposed rule change from an exchange to be approved, the

¹⁶ See Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (Aug. 1, 2018) (SR-BatsBZX-2016-30) (the “Winklevoss Order”); the Bitwise Order; Order the Wilshire Phoenix Order; Order Disapproving a Proposed Rule

Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act.¹⁷ In these disapproval orders, the Commission outlined that a proposal relating to a Bitcoin-based ETP could satisfy its concerns regarding potential for fraud and manipulation by demonstrating that (1) the underlying commodity market is inherently resistant to fraud and manipulation; (2) there are other means to prevent fraudulent and manipulative acts and practices that are sufficient; or (3) the listing exchange has entered into a surveillance sharing agreement with a regulated market of significant size relating to the underlying or reference assets.

According to the Sponsor,¹⁸ bitcoin is dominant, accounting for more than 49% of the total market capitalization of cryptoassets.¹⁹ As of June 2021, the market cap for Bitcoin is over \$600 billion.²⁰ Bitcoin also has the longest history of any cryptoasset. Alongside the growth in users, active wallets and market capitalization, institutional ratings of various tokens have increased substantially. Ratings are based on factors such as core team, project, and ecosystem metrics. Bitcoin ranks as one of the most widely used, if not the most widely used, cryptoassets in the global token market. Within the Bitcoin network, there are more than 38 million unique bitcoin wallet addresses holding a positive balance, which shows a steady increase in the number

Change to List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Securities Exchange Act Release No. 83904 (Aug. 22, 2018), 83 FR 43934 (Aug. 28, 2018) (SR-NYSEArca-2017-139) (the “ProShares Order”); Order Disapproving a Proposed Rule Change Relating to Listing and Trading of the Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares Under NYSE Arca Rule 8.200-E, Securities Exchange Act Release No. 83912 (Aug. 22, 2018), 83 FR 43912 (Aug. 28, 2018) (SR-NYSEArca-2018-02) (the “Direxion Order”); Order Disapproving a Proposed Rule Change to List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF, Securities Exchange Act Release No. 83913 (Aug. 22, 2018), 83 FR 43923 (Aug. 28, 2018) (SR-CboeBZX-2018-01) (the “GraniteShares Order”).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See Registration Statement on Form S-1 at 42.

¹⁹ Coinmarketcap.com, bitcoin price statistics are available at <https://coinmarketcap.com/currencies/bitcoin/>.

²⁰ See id.

of bitcoin owners and depth of ownership over the last four years. Holding periods for bitcoin are also relatively long, as 58% of owners maintain ownership for longer than a one-year period, and 70% of all holders are in profitable positions.²¹

The marketplace is maturing with increased institutional participation.²² Twenty-eight public companies hold bitcoin, accounting for less than 1% of the total supply. More traditional financial market participants appear to be embracing cryptoassets: large insurance companies,²³ asset managers,²⁴ university endowments,²⁵ pension funds,²⁶ and even historically bitcoin skeptical fund managers²⁷ are allocating to bitcoin. Established companies like Tesla, Inc.,²⁸

²¹ See Coinmarketcap.com, on-chain analysis of bitcoin available at <https://coinmarketcap.com/currencies/bitcoin/onchain-analysis/>.

²² See Registration Statement on Form S-1 at 42.

²³ On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased \$100 million in bitcoin for its general investment account. See MassMutual Press Release “Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual” (December 10, 2020), available at: <https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual>.

²⁴ See, e.g., “BlackRock’s Rick Rieder says the world’s largest asset manager has ‘started to dabble’ in bitcoin” (February 17, 2021) available at: <https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html> and “Guggenheim’s Scott MinerD Says Bitcoin Should Be Worth \$400,000” (December 16, 2020), available at: <https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000>.

²⁵ See, e.g., “Harvard and Yale Endowments Among Those Reportedly Buying Crypto” (January 25, 2021), available at: <https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto>.

²⁶ See, e.g., “Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin” (February 14, 2019), available at: <https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html>.

²⁷ See, e.g., “Bridgewater: Our Thoughts on Bitcoin” (January 28, 2021), available at: <https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin> and “Paul Tudor Jones says he likes bitcoin even more now, rally still in the ‘first inning’” (October 22, 2020), available at: <https://www.cnbc.com/2020/10/22/-paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html>.

²⁸ See Form 10-K submitted by Tesla, Inc., for the fiscal year ended December 31, 2020 at 23: [https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k 20201231.htm](https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k%20201231.htm).

MicroStrategy Incorporated,²⁹ and Square, Inc.,³⁰ among others, have recently announced substantial investments in bitcoin in amounts as large as \$1.5 billion (Tesla) and \$425 million (MicroStrategy). MassMutual Insurance Company, one of the nation's oldest private companies and a historically conservative investor, has purchased over \$100 million in bitcoin.

The rise in the digital economy has led to an increase in activity within the regulated banking system, reflecting increased institutional demand. Silvergate Bank, a commercial bank service provider in California, reported fee income from digital currency customers of \$7.1 million in the first quarter of 2021, up from \$1.7 million a year earlier. These are substantial developments since the Commission last reviewed a bitcoin ETF proposal. Additionally, licensed and regulated service providers have emerged to provide fund custodial services for digital assets, among other services. For example, in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3-3 under the Exchange Act; in September 2020, the Staff of the Commission released a no-action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System ("ATS") for digital asset securities, subject to specified conditions.

Further, the U.S. Department of the Treasury's (the "Treasury") Financial Crimes Enforcement Network ("FinCEN"), which in 2013 and 2019 released guidance regarding the applicability of the Bank Secrecy Act ("BSA") and its implementing regulations to exchangers and administrators of convertible virtual currency,³¹ has recently proposed two separate

²⁹ See Form 10-Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/00015645902004799_5/mstr-10q_20200930.htm.

³⁰ See Form 10-Q submitted by Square, Inc., for the quarterly period ended September 30, 2020 at 51: https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/00015126732000001_2/sq-20200930.htm.

³¹ See, e.g., FIN-2013-G001, Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies (Mar. 18, 2013); FIN-2019-

rulemaking initiatives aimed at enhancing transparency, which would require certain financial institutions to collect, retain, share and report to FinCEN information related to certain transactions involving convertible virtual currency or certain digital assets, including identification information of persons engaged in such transactions.³² Although FinCEN has not finalized these proposed rules, they signal an intention by FinCEN to close any regulatory gaps and require certain cryptoasset transactions to be subject to anti-money laundering compliance measures. Further to this point, in March 2021 the Financial Action Task Force (“FATF”) issued updated draft guidance that, when issued in final form, would significantly broaden the reach of certain anti-money laundering, including know-your-customer, compliance requirements applicable to transactions in virtual assets or involving virtual asset service providers.³³ Although FinCEN has not finalized its proposed rules yet, and the FATF guidance does not have the force of law, these actions signal a concerted effort among regulatory bodies to introduce requirements that would reduce anonymity of cryptoasset transactions and implement stronger anti-money laundering compliance measures among industry participants. In addition, the Treasury’s Office

G001, Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies (May 9, 2019) (consolidating existing FinCEN regulations, guidance and administrative rulings that relate to money transmission involving virtual currency and applying the same interpretive criteria to other common business models involving convertible virtual currencies). See also FIN-2019-A003, Advisory on Illicit Activity Involving Convertible Virtual Currency (May 9, 2019) (advising financial institutions in identifying and reporting suspicious activity related to criminal exploitation of convertible virtual currencies for money laundering, sanctions evasion, and other illicit financing purposes).

³² Joint Notice of Proposed Rulemaking, Threshold for the Requirement To Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds That Begin or End Outside the United States, and Clarification of the Requirement to Collect, Retain, and Transmit Information on Transactions Involving Convertible Virtual Currencies and Digital Assets with Legal Tender Status, 85 Fed. Reg. 68005 (Oct. 27, 2020); Notice of Proposed Rulemaking, Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets, 85 Fed. Reg. 83840 (Dec. 23, 2020).

³³ See FATF Draft updated Guidance for a risk-based approach to virtual assets and VASPs (March 2021), available at <http://www.fatf-gafi.org/media/fatf/documents/recommendations/March%202021%20-%20VA%20Guidance%20update%20-%20Sixth%20draft%20-%20Public%20consultation.pdf>.

of Foreign Assets Control (“OFAC”) has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.³⁴ The proposed anti-money laundering rules are intended to reduce anonymity and promote transparency within the cryptoasset markets generally and of cryptoasset exchanges specifically, including the exchanges that compose the bitcoin component of the Index (as described below). These regulatory and enforcement actions acknowledge the increasing use of bitcoin and other cryptoassets within the broader global financial sector generally, and represent ongoing efforts to regularize the use of such cryptoassets within existing regulatory frameworks.

Technological advancements on the bitcoin protocol are also progressing and will broaden institutional adoption of the bitcoin protocol as a technology. The last major upgrade to the protocol occurred in 2017, when the technical feature known as “segregated witness” (“Segregated Witness”) was added. The Segregated Witness advancement allowed for the rise in block space and enabled the Lightning Network, a fast and inexpensive payment system that operates on the bitcoin protocol, to be safely employed. The Lightning network’s capacity has risen from less than \$200 thousand to more than \$50 million since then.

Taproot is a technological innovation that will be implemented in November 2021. This innovation will allow for single-signature and multi-signature scripts and other complex transactions to become identical-looking commitments on the Bitcoin Blockchain. The Taproot innovation will accommodate complex transactions through smart contracts, which will have broader financial adoption. Institutional holdings of bitcoin reflect collateral that can benefit from these technological advancements.

³⁴ See Enforcement Release, U.S. Dep’t of the Treasury, “OFAC Enters Into \$507,375 Settlement with BitPay, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions” (Feb. 18, 2021), available at https://home.treasury.gov/system/files/126/20210218_bp.pdf and Enforcement Release, U.S. Dep’t of the Treasury, “OFAC Enters Into \$98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions” (Dec. 30, 2020), available at https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.

There have also been advancements in regulatory frameworks, both on a global and national scale, on cryptoasset exposures since the Commission's last review. The Bank of International Settlements, the global bank for central banks who supports monetary and financial stability, provided consultation on prudential treatment of cryptoassets. The philosophy behind the guidance was "same risk, same activity, same treatment," reinforcing the concept of "technological neutrality." The design of the prudential treatment of cryptoassets is conservative, with a 1250% risk weight applied to the maximum of long and short exposures.³⁵

Furthermore, within the United States, the Commodity Futures Trading Commission ("CFTC") has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptoasset trading,³⁶ including, in certain cases, against defendants for direct trading of cryptoassets.³⁷

In Gelfman, the CFTC filed for injunctive relief against Gelfman Blueprint Inc., and its CEO, Nicholas Gelfman, concerning an alleged Ponzi scheme, asserting jurisdiction on the basis of Mr. Gelfman engaging in some Bitcoin trading and thereby engaging in manipulative trading in commodities. Similarly, in CabbageTech, CabbageTech, Corp. was found guilty of fraudulent behavior in another case brought by the CFTC for "a deceptive and fraudulent virtual currency scheme." The CFTC has historically asserted jurisdiction over spot market commodities trading, where manipulative trading in the spot market can affect its derivatives market. The Gelfman

³⁵ The Basel Committee on Banking Supervision has published a public consultation on preliminary proposals for the prudential treatment of banks' cryptoasset exposures. See Prudential Treatment of Cryptoasset Exposures available at: <https://www.bis.org/bcbs/publ/d519.htm>.

³⁶ The CFTC's annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC "continued to aggressively prosecute misconduct involving digital assets that fit within the CEA's definition of commodity" and "brought a record setting seven cases involving digital assets." See CFTC FY2020 Division of Enforcement Annual Report, available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download.

³⁷ See CFTC v. Gelfman Blueprint, No. 17-7181 (S.D.N.Y. Sept. 21, 2017) ("Gelfman") and CFTC v. Patrick K. McDonnell & Cabbagetechn Corp., d/b/a Coin Drop Markets, (No. 18-CV-0361) (E.D.N.Y. Aug. 24, 2018) ("CabbageTech").

case is unique in that the CFTC asserted jurisdiction over the spot market when there was little to no derivatives trading in the United States. Similarly, the CabbageTech case did not indicate that there was any derivatives trading conducted, yet the court rejected the defendant's claim that the CFTC had no jurisdiction in the matter. Courts have taken an expansive interpretation of the CFTC's jurisdiction over trading in particular virtual currency products on the basis that futures trading in such products as a class already occurs.³⁸ The CFTC's enforcement division has remained consistently active in the virtual currency space. On October 1, 2020, the CFTC filed a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges.³⁹ On March 19, 2021, the CFTC ordered digital asset exchange operator Coinbase Inc., to pay \$6.5 million in monetary penalties and desist from further violations of Commodity Exchange Act and CFTC rules in connection with alleged reckless delivery of false, misleading, or inaccurate reports concerning transactions in digital assets, including bitcoin, on the Global Digital Asset Exchange (GDAX) electronic trading platform, as well as allegations of manipulative market activities by Coinbase Inc. employees.⁴⁰

The U.S. Office of the Comptroller of the Currency ("OCC") has also made clear that federally-chartered banks are able to provide custody services for cryptoassets and other digital assets.⁴¹ In addition, the Board of Governors of the Federal Reserve System proposed guidelines to evaluate the requests for account services at Federal Reserve Banks in light of recent changes

³⁸ See Commodity Futures Trading Comm'n v. My Big Coin Pay, Inc., 334 F. Supp. 3d 492, 496–97 (D. Mass. 2018) (finding that defendants' virtual currency, "My Big Coin," was a commodity subject to CFTC anti-fraud and anti-manipulation authority because contracts for future delivery of virtual currencies were already "dealt in" even if futures contracts for My Big Coin, specifically, were not).

³⁹ See CFTC Release No. 8270-20 (October 1, 2020), available at: <https://www.cftc.gov/PressRoom/PressReleases/8270-20>.

⁴⁰ See CFTC Release No. 8369-21 (March 19, 2021), available at: <https://www.cftc.gov/PressRoom/PressReleases/8369-21>.

⁴¹ See OCC News Release 2021-2 (January 4, 2021), available at: <https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html>.

to the financial payments landscape.⁴² The guidelines are in response to the rapidly-evolving technological progress and new financial services observed through cryptoassets, of which bitcoin is the dominant asset. The proposal is aimed at financial stability, protecting consumers, and promoting innovation in the payments system.

The Sponsor notes below the advancement of the application of the Index (as described below) over that same period of time, including how the Index articulates the potential remedy that it can be to sufficiently mitigate the pricing issues and various risks surrounding market manipulation.

Bitcoin and Market Integrity

The bitcoin market has evolved significantly as adoption pressure has broadened from both retail and institutional clients from a global perspective. There has been concern over whether cryptoasset exchanges have mechanisms in place to report and remediate price and ensure market integrity. As the industry has grown substantially and the number of marketplaces expands, it follows that the quality of these marketplaces will vary. This notion is amplified for exchanges that are unregulated or decentralized. Therefore, the Sponsor believes that there must be sufficiency of data inputs for the calculation of the spot price of bitcoin. In turn the data must be provided under licensing arrangements with each exchange, which in turn impose strict entry criteria. As described below, the design of the methodology and framework of the Index are sufficiently resistant to market manipulation while providing oversight managed by an independent committee.

Index Price Manipulation

According to the Sponsor, the use of the Index eliminates those bitcoin spot markets with indicia of suspicious, fake, or non-economic volume from the NAV calculation methodology pursuant to which the Trust prices its Shares. In addition, the use of multiple eligible bitcoin spot

⁴² See Federal Reserve Docket No. OP-1747 (May 5, 2021), available at <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20210505a1.pdf>.

markets is designed to mitigate the potential for idiosyncratic market risk, as the failure of any individual bitcoin spot market should not materially impact pricing for the Trust.

The use of 20 rolling three-minute increments means a malicious actor would need to sustain efforts to manipulate the market over an extended period of time, or would need to replicate efforts multiple times, potentially triggering review from the spot market or regulators, or both. The use of a “median” price limits the ability of outlier prices, which may have been caused by attempts to manipulate the price on a particular market, to impact the NAV, as it systematically excludes those outlier prices from the NAV calculation. Any attempt to manipulate the NAV would require a substantial amount of capital distributed across a majority of the eligible spot markets, and potentially coordinated activity across those markets, making it more difficult to conduct, profit from, or avoid the detection of market manipulation.

The Sponsor further believes that because the Trust will, in all ordinary circumstances, not purchase or sell bitcoin, but instead process all creations and redemptions in-kind in transactions with Authorized Participants, the Trust is uniquely protected against potential attempts by bad actors to manipulate the price of bitcoin on spot markets contributing to the Index and thereby the Trust’s NAV calculation.⁴³ This is true even with respect to transactions with Authorized Participants who rely on the cash exchange process, as regardless of whether an Authorized Participant chooses to rely on such process in connection with a given creation or redemption order, the Trust will create (or redeem, as appropriate) Baskets only upon the receipt (or distribution, as appropriate) of bitcoin, and will not create or redeem any Baskets based on the receipt or distribution of cash alone. Even if a bad actor were able to temporarily manipulate the price of bitcoin on a spot market or manipulate enough of the volume of the markets to overwhelm the protections designed into the Index and thereby the NAV, the fact that the Trust will create or redeem Baskets only upon receipt or distribution of bitcoin (in all circumstances

⁴³ Except to pay certain expenses or in the case of a forced redemption or other ordinary circumstances, the Trust will not purchase or sell bitcoin directly.

barring a forced redemption) means that the amount of bitcoin per Share held by the Trust would not be impacted. Therefore, long-term Shareholders of the Trust would be protected in a way that shareholders of trusts processing creations or redemptions directly in cash would not be protected. In other words, because the Trust will generally not accept cash in order to create new Shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed Shares, the ratio of bitcoin per Share that Authorized Participants will tender (for creations) or receive (for distributions) will not change as a result of any changes in the price per Share, even if the Authorized Participant relies on the cash exchange process to facilitate such creation or redemption.

The Trust's NAV incorporates unpaid expenses, including costs of carbon offsets through the MCO2 token. If MCO2 tokens are unavailable for any reason, the carbon credit prices will be benchmarked to the average wholesale price as defined by IHS Markit survey for voluntary carbon credit wholesale prices, OPIS, plus the cost of tokenizing the credits. In addition, the Trust's performance will necessarily fall below that of similar bitcoin-focused investment vehicles due to the expenses associated with retiring MCO2 tokens as required to track the Index. Given the Trust's focus on carbon neutrality, its performance from a purely financial perspective will necessarily fall below other similar investment structures that do not seek to achieve a carbon neutral result from their portfolio investments. However, as discussed above, the Sponsor believes that the Trust's use of in-kind creations and distributions will tend to insulate Shareholders from any impact that these carbon neutrality-related expenses may have on the price of Shares by ensuring that Shareholders will pay (for creations) and receive (for redemptions) the same number of bitcoin regardless of Share price.

Availability of Information

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The IIV will be available through on-line information services.

Information about the Shares will be posted to the Trust's website <https://www.oneriveram.com/digital-strategies>. Information will include: (i) the NAV and NAV per Share for each Exchange trading day, posted at end of day; (ii) the daily holdings of the Trust, before 9:30 a.m. E.T. on each Exchange trading day; (iii) the Trust's effective prospectus, in a form available for download; and (v) the Shares' ticker and CUSIP information; and additional quantitative information updated on a daily basis for the Trust. The Trust's website will include: (i) the prior business day's trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation ("Bid/Ask Price") against the NAV and (ii) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters.

The Index value is available on Calculation Agent's website and from major market data vendors. Quotation and last sale information for bitcoin will be widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. In addition, the complete real-time price (and volume) data for bitcoin is available by subscription from Reuters and Bloomberg. The spot price of bitcoin also is available on a 24-hour basis from major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in bitcoin will be available from major market data vendors and from the exchanges on which bitcoin are traded. The normal trading hours for bitcoin exchanges are 24-hours per day, 365-days per year.

The Sponsor will publish the NAV per Share on the Trust's website as soon as practicable after its determination. The Trust will provide website disclosure of its NAV daily. The website disclosure of the Trust's NAV will occur at the same time as the disclosure by the Sponsor of the NAV to Authorized Participants so that all market participants are provided such information at the same time. Therefore, the same information will be provided on the public

website as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current NAV of the Trust through the Trust’s website, as well as from one or more major market data vendors.

Trading

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange’s existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34-E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00, for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201-E. Trading of the Shares will be subject to NYSE Arca Rule 8.201-E(g), which sets forth certain restrictions on Equity Trading Permit (“ETP”) holders (“ETP Holders”) acting as registered market makers in Commodity-Based Trust Shares to facilitate surveillance. The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A-3⁴⁴ under the Act, as provided by NYSE Arca Rule 5.3-E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Trust.⁴⁵ Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been

⁴⁴ 17 CFR 240.10A-3.

⁴⁵ See NYSE Arca Rule 7.12-E.

reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs.⁴⁶ If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. The Exchange may also halt trading if the value of the Index is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, Trust, Custodian or the Exchange.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁴⁷ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When

⁴⁶ A limit up/limit down condition in the futures market would not be considered an interruption requiring the Trust to be halted.

⁴⁷ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”).⁴⁸ The Exchange is also able to obtain information regarding trading in the Shares in connection with such ETP Holders’ proprietary or customer trades which they effect through ETP Holders on any relevant market.

In addition, the Exchange also has a general policy prohibiting the improper distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (1) the description of the portfolios of the Trust, (2) limitations on portfolio holdings or reference assets, or (3) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

⁴⁸ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Trust may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁴⁹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets. In addition, the Exchange may obtain information regarding trading in the Shares from markets that are members of ISG or with which the Exchange has in place a CSSA. Also, pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying bitcoin or any bitcoin derivative through ETP Holders acting as registered market makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

The proposed rule change is designed to prevent fraudulent and manipulative acts and practices. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and

⁴⁹ 15 U.S.C. 78f(b)(5).

detect violations of Exchange rules and the applicable federal securities laws, and the Exchange may obtain information regarding trading in the Shares via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. Beyond the use of such surveillance agreements, the Exchange believes the significant liquidity in the spot market and resultant minimal impact of market orders on the overall price of bitcoin, in conjunction with the Trust's offering only in-kind creation and redemption of Shares with respect to Authorized Participants, further mitigates the risk associated with potential manipulation and financially disincentivizes manipulation of the Index.

To protect investors and the public interest, there is a considerable amount of bitcoin price and market information available on public websites and through professional and subscription services. Investors may obtain, on a 24-hour basis, bitcoin pricing information based on the spot price for bitcoin from various financial information service providers. The closing price and settlement prices of bitcoin are readily available from exchanges and other publicly available websites. In addition, such prices are published in public sources, or on-line information services such as Bloomberg and the Wall Street Journal. In addition to the price transparency of the Index and of bitcoin itself, the Trust will provide website disclosure of its bitcoin holdings daily, as well as additional information about the Trust. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The IIV will be widely disseminated on a per Share basis every 15 seconds during the NYSE Arca Core Trading Session (normally 9:30 a.m. E.T. to 4:00 p.m. E.T.) by one or more major market data vendors. In addition, the IIV will be available through on-line information services. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV or the Index value occurs. If the interruption to the dissemination of the IIV or the Index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition,

if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

The proposed rule change is also designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of bitcoin price and market information available on public websites and through professional and subscription services. Investors may obtain, on a 24-hour basis, bitcoin pricing information based on the spot price for bitcoin from various financial information service providers.

The Trust's website will also include a form of the prospectus for the Trust that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. The Trust's website will include (i) daily trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the Bid/Ask Price against the NAV; and (ii) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

The Index value is available on Calculation Agent's website and from major market data vendors. The spot price of bitcoin also is available on a 24-hour basis from major market data vendors.

Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of a new type of exchange-traded product based on the price of bitcoin that will enhance

competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product, and the first such product based on Bitcoin, which will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve or disapprove the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2021-67 on the subject line.

Paper comments:

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2021-67. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-67 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁰

J. Matthew DeLesDernier,

Assistant Secretary.

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⁵⁰ 17 CFR 200.30-3(a)(12).